cert or Supplement to Jurisdictional Statement

RECEIVED
OCT 24 1983
OFFICE OF THE CLERK
SUPREME COURT, U.S.

October 19, 1983

Supreme Court of the
United States
Washington DC 20543

Attn.: Mr. Alexander L. Stevas
Court Clerk

Re: Rolf Betka v. City of West Linn, et al.
No. 83-5460

Dear Mr. Stevas:

Attached please find Order of the 9th Cir. Court, dtd Oct 11, 1983 in the baove case with CA No. 82-3474.

I thought it necessary to respond without Motion on account of the jurisdiction of this court over the case and to avoid any last minute Motion to dismiss or affirm by the adverse parties on the grounds of an dismissed appeal in the Appellate Court.

Very truly Yours
Rolf Betka
Rolf Betka
Appellant, In Pro Per

attached: Copy of Order, dtd Oct 11,83
Copy of Response with demand
to vacate order dismissing
Appeal.

FILED

OCT 11 1983

PHILLIP B. WINSEKRY
CLERK, U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROLF BETKA,

Plaintiff-Appellant,

vs.

CITY OF WEST LINN, a subdivision of the State of Oregon; ARTHUR R. ENDERLIN; GERALD CRIPPEN; DONNA LEE FERGUSON; JOHN W. TEGTMEYER; JERRY L. BULLOCK; DAVID SCHERMER; CHARLES H. COMBS; JOE DOE, Sheriff's Deputy of Clackamas County; DENNIS VOTE; PAUL McALLISTER, Sheriff of Clackmas County of the State of Oregon,

Defendants-Appellees.

No. 82-3474

DC# CV-81-866-OMP
Oregon (Portland)

ORDER

Before: SCHROEDER, FLETCHER, and NELSON, Circuit Judges.

Appellees' renewed motions to dismiss this appeal for lack of prosecution are granted. Appellant has neither posted the bond required by the district court's order nor made any showing that he is unable to post the bond. In these circumstances, dismissal is required.

ROLF BETKA, In Pro Per
19886 S. White Cloud Circle
West Linn, Ore. 97068
Telephone: (503) 657-3669

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROLF BETKA,

Plaintiff-Appellant,

vs.

CITY OF WEST LINN, a subdivision of the State of Oregon, et al.,

Defendants-Appellees.

RESPONSE WITH DEMAND TO VACATE ORDER DISMISSING APPEAL

The law demands that the Order of this Court of Oct 11, 1983 by this Court be vacated by authority as held in Asst. Gen. Contr. v. Secretary of Commerce of U.S. Dept of Commerce (CD Cal) 77 FRD 31, vacated on other grounds, 438 U.S. 909, 57 LED 2nd 1153, 98 SCt 3132, 98 SCt 3133, on remand (CD Cal) 459 F Supp 766.

holding that Supreme Court has jurisdiction after timly notice of appeal has been filed. This was done in this case on Jul 22 with additional and amended Notice filed on Sept 2 after a new matter had been brought to the attention of this Court with the understanding that concurrent jurisdiction existed over City of West Linn Court matter involving the issuing of a judgment against appellant with the help of fraud apparently encouraged by the handling of this case in the Fed. Distr. Court. The appeal to the Supreme Court is authorized by Title 28-1257 and 1291 and 2201 etc. and was taken from the final order

dismissing inter alia,Complaint for Declatory Judgment which was served on attorneys of opposing parties on April 4, 1983 as authorized by Fed. Rules of Civ. Proced., Rule 5b with Amendment to Summons to comply with complaints (incl. Decl. Judgment) served on June 20 and ordered to be received by Judge Frye with date of July 7, and by Judge Penner with date of July 12, 1983.

Title 28-1252 appeal (see amended Notice of Appeal) is based and meets the essential requirements:

(1) Interlocutory or final order by this Court
(2) Act of Congress for 28-1252 purposes is Uniform Code of Military Justice as applied in the Nurenberg Tribunals
(3) Federal employee - Defendant Combs

The requirements for appeal under 28-1253 are met as follows:

(1) The one Judge Distr. Court decision demanded that appellant approached this court first as held in

Wilson v. Fort Lawton, 1961, 301 U.S. 352 [illegible] and Whitfield v. Wallace, 1961, [illegible] and

The Distr. Court Judgment was one under FRCP 5Lb and requested injunctive Relief was denied with order to dismiss by one Judge court. Allegations of denial of due process were made before dismissal in Distr. Court to Judge Penner with Motion for Preliminary Hearing on Defenses (CR 101) and are part of the appeal and were not tested before issuing the order of July 6, 82 from which appellant appealed to the Supreme Court.

Appellants Motion for Reassignment of Judge Penner of Aug 6, 1982 and his denial of Oct 28, 1982 compelled this court contrary to the order of July 6, 83 to vacate all subsequent orders including order for Cost Bond not only on the basis of denial of due process but also because of Abuse of discretion. Authority hereto is

Mims v. Shapp, CA3 Pa 541 F2nd 415

(2) After unsuccessful attempt in this court to convince that Cost Bond was improper also on the basis of being discretionary since FRAP Rule 7 was amended in 1979, appellant was authorized after step (1) above to appeal to Supreme Court under 28-1253 from decree dismissing bill in which interlocutory injunction was applied for in Distr. Court.

as held in

Clark v. Poor, 1927, 274 U.S. 554, 71 LED 1199, 47 SCt 702

Appellant was authorized to asked for the disqualification of Judge Penner based on related argument holding that denial of due process is ground for disqualification as shown in

Rosen v. Sugerman, CA2 NY 357 F2nd 794 and Marty's Floor Covering Co. v. GAF Corp. 604 F2nd 266, 1979-2 CCH Trade Cass 62 762 cert. denied 444 US 1017, 62 LED 2nd 647 100 SCt 670.

especially since appellants objection had been made before the dismissal by judge Penner, and Reassignment of Judge was part of the appeal. Issues of judicial administration, not taken up by this Court, and which seriously affect the fairness, integrity or reputation of public judicial proceedings are allowed to be heard for the first time in the Supreme Court also allowed the appeal under 28-1252, 1253, 2201 and 1651 etc. as appealed with Notice and amended Notice of appeal. Authority hereto is found in

Conner v. Finch, 431 US 407, 52 LED 2nd 465 97 SCt 1828.

Allegation of denial of due process are before this Court see part of Motion opposing the dismissal of the appeal applied for by defendant City of West Linn on Aug 10, 1983.

Since the Complaint for Declatory Judgment might have run into attitudes developed by clicles appellant would like to refer to experts in american law like Supreme Court justices W.O. Douglas and C. Clark who like appellant would agree, judging from their privious statements, that the Nuerenberg Tribunals were unprincipaled and therefore unconstitutional and unlawful

on account of the Ex Post Facto Law created for that special occasion and is still in use to suppress minority views supposed to be protected and hereby allowed in public forums like schools and electronic media. The defendants as well as the defendants in AC 81-3611 have tolerated, promoted the suppression of free speech and deprived appellant direct and indirect of constitutional guarantees secured for him as United States Citizen of german background who like hunderods of public figures including U.S. Military leeders and U.S. Supreme Court Justices has stated publicly opinions opposing the Tribunals. The statements attacking the Nuernberg Tribunals are from the book "Doenitz at Nuernberg: A Re-Appraisal - War Crimes and the Military Professional" with Preface by Justice William L. Hart (Supreme Court of Ohio), Library of Congress Card No. 75-26202, Copyright 1983 by Institute for Historical Review, P.O. Box 1306, Torrance, Calif. 90505.

Regarding the caption of the case:please take note that the Notice and amended Notice of Appeal are listing additional defendants for which application for additional summons had been made in this court after new matter had been introduced on account of recent additional actions of discrimination by the City of West Linn in conspiracy with the County of Clackamas, the Sheriff of Clackamas and privat persons. Concurrent federal jurisdiction existed on account of the involved fraud which should have allowed the orders applied for to restrain prosecution and to stay execution after entry of judgment against appel in West Linn Municipal Court. The denial to accept a timly Motion under FRCP 60(b)(4) by the District Court had prompted appellant

to file the Motion to Stay the West Linn Municipal Court proceedings against appellant in this court instead of the District Court. The 60(b)(4) Motion contains a list of allegations of denial of due process in District Court (see page 3, line 19). Defendant P. McAllister, Sheriff had been convicted of a federal crime and the new Sheriff Wm. M. Brooks should be listed as applied for in this court by appellant under the federal rules.

DATED: Oct 18, 1983

ROLF BERG, In Pro Per

CERTIFICATE OF MAILING

I hereby certify that on Oct 18, 1983 a true and correct copy hereof was mailed to the following individuals:

Emil R. Berg, William A. Davis, J. Hill, One SW Columbia Portland, Ore. 97258, attorneys for Defendant D. Schemmer and Charles Combs.

R.E. Bailey, S. Joel Wilson and J.A. Geary of Bullivant, Wright, Leedy, Johnson, Pendergrass and Hoffman, attorneys for Defendant City of West Linn and their defendant employees 121 S.W. Salmon St., Portland, Ore. 97204

Keith Kinsman, Asst County Counsel for Clackamas County, 906 Main St, Oregon City, Ore. 97045, attorney for Wm. M. Brooks, Sheriff and Joe Doe Sheriffs Deputy both of and with Clackamas County, State of Oregon

Defendant J.L. Bullock and Dennis Vote have made no appearance and Default had been entered.

DATED: Oct 18, 1983

ROLF BERG